

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is entered into by and between the U.S. Department of Housing and Urban Development ("HUD" or "Department") and First American Title Insurance Company ("First American"), located at 1 First American Way, Santa Ana, CA 92707, collectively referred to herein as the "Parties," for and in consideration of the following:

WHEREAS, the Secretary of Housing and Urban Development is authorized to enforce the Real Estate Settlement Procedures Act of 1974 ("RESPA" or "the Act"), 12 U.S.C. § 2601 *et seq.*, and its implementing regulations, 24 C.F.R. § 3500 *et seq.*;

WHEREAS, the Secretary is authorized by Section 19 of RESPA, 12 U.S.C. § 2617, to investigate any facts, conditions, practices, or matters deemed necessary to determine whether any person has violated or is about to violate any provision of the Act or any rule or regulation prescribed pursuant thereto;

WHEREAS, Section 8(a) of RESPA, 12 U.S.C. § 2607(a), and the implementing regulations at 24 C.F.R. § 3500.14, prohibit the giving or accepting of any fee, kickback or thing of value pursuant to an agreement or understanding, oral or otherwise, that business incident to or part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person;

WHEREAS, Section 8(b) of RESPA, 12 U.S.C. § 2607(b), prohibits the giving or accepting of any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed;

WHEREAS, 24 C.F.R. § 3500.14 sets forth the implementing regulations for RESPA, Section 8(a) (“the Regulations”);

WHEREAS, the Regulations at 24 C.F.R. § 3500.14(d) define a thing of value to include the opportunity to participate in a money-making program, discounts, sales or rentals at special prices or rates, and lease or rental payments based in whole or in part on the amount of business referred;

WHEREAS, First American, which is in the primary business of providing title and escrow services, is a national corporation, wholly owned by The First American Corporation;

WHEREAS, KB Mortgage Company (“KBMC”), a subsidiary of homebuilder KB Home, is a company in the position to refer settlement service business to First American;

WHEREAS, by Letter Agreement of February 9, 2001, First American and KBMC agreed to enter into a arrangement in which Homesafe Escrow Company, a wholly-owned subsidiary of KBMC, would provide transaction coordination services in connection with escrows opened up by KBMC homebuyers with First American in the states of California, Arizona, New Mexico, Colorado and Nevada;

WHEREAS, it is the position of the Department that First American enabled KBMC to profit from the Homesafe arrangement in return for the referral of settlement service business;

WHEREAS, First American also provided Homesafe physical office space and access to amenities without ever charging rent or fees for such use;

WHEREAS, HUD has determined that the above practices constituted violations of Sections 8(a) and 8(b) of RESPA;

WHEREAS, First American denies that its conduct constituted violations of RESPA;

WHEREAS, during the course of the investigation, First American cooperated with the Department;

WHEREAS, the Parties agree that this Settlement Agreement constitutes the settlement of disputed claims between the Parties, including claims and defenses under the Act and the Regulations;

WHEREAS, the Parties desire to avoid prolonged proceedings and any further expense; and

WHEREAS, First American knowingly and voluntarily enters into this Settlement Agreement, and the parties agree this agreement is a full and reasonable resolution of the matters developed in the Department's investigation and is in the public interest;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. This Settlement Agreement is effective on the date of signature of the last signatory to the Settlement Agreement (hereinafter the "Effective Date").
2. Based on First American's compliance with this Settlement Agreement, the Department will terminate its investigation of First American in this matter, and agrees to take no further enforcement action under RESPA against First American, and their respective shareholders, owners, directors, officers, and employees, with respect to the arrangement described herein, unless First American reenters into the arrangement with

KBMC or enters into similar arrangements with other homebuilders.

3. First American has terminated its participation in the Homesafe arrangement and will not resume its participation in this arrangement with KBMC, or similar arrangements with other homebuilders, at any point in the future.
4. Within thirty (30) business days of the Effective Date, First American will make a settlement payment of One Million and Four Hundred Thousand Dollars (\$1,400,000) payable to the United States Treasury, and delivered to counsel for HUD at an address to be specified by HUD.
5. First American hereby waives, releases, remits and compromises any and all claims, directly or indirectly, against the Department, or any of its employees, agents, or representatives, with respect to HUD's investigation of this matter or this Settlement Agreement.
6. First American agrees to comply with all provisions of RESPA, and its implementing regulations and statements of policy.
7. In addition to the documents and information already provided, First American agrees to cooperate fully with all future reasonable requests for documents, information, and testimony that HUD and/or the U.S. Department of Justice may seek in connection with any ongoing investigation of this matter. Cooperation means, among other things, ~~reasonable requests for documents and witness production, as well as sworn testimony,~~ if necessary.
8. Should First American fail to comply with the terms set out above, or should any of its ~~representations prove to be false or incomplete in any material manner,~~ the Department may take appropriate enforcement action and/or refer the matter to other governmental

authorities for further action.

9. This Settlement Agreement constitutes the complete agreement between the Parties as to the matters addressed herein. This Settlement Agreement may not be amended except by written consent of the Parties.
10. This Settlement Agreement applies to and binds First American, its parents, affiliates and subsidiaries, and their respective predecessors, successors, directors, officers, principals, assignees and shareholders.
11. By this Settlement Agreement the Parties do not waive, release, remit or compromise any claims against any other person not expressly released by this Settlement Agreement.
12. Each person who signs this Settlement Agreement in a representative capacity warrants that his or her execution of this Settlement Agreement is duly authorized, executed, and delivered by and for the entity for which he or she signs.
13. If any provision of this Settlement Agreement is determined to be invalid or unenforceable for any reason, then such provision shall be treated as severed from the remainder of this Settlement Agreement and shall not affect the validity and enforceability of all the other provisions of this Settlement Agreement, as long as such severance does not materially change the Parties' rights and obligations.
14. This Settlement Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute the same agreement.